

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

ANDREW MILLER,

Plaintiff,

v.

CIVIL ACTION NO. 2:21-cv-00432

MIKE BROWN, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

On August 2, 2021, the Plaintiff, proceeding *pro se*, filed an *Application to Proceed Without Prepayment of Fees and Costs* (Document 1) and a *Complaint* (Document 2). By *Administrative Order* (Document 3) entered on August 3, 2021, the matter was referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636.

On March 11, 2022, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 4) wherein it is recommended that this Court deny the Plaintiff's *Application to Proceed Without Prepayment of Fees and Costs* (Document 1), dismiss the Plaintiff's *Complaint* (Document 2) without prejudice pursuant to 28 U.S.C. § 1915(g), and remove this matter from the Court's docket. Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by March 28, 2022.

Neither party has timely filed objections to the Magistrate Judge's *Proposed Findings and Recommendation*. The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and a party's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*, and **ORDERS** that the Plaintiff's *Application to Proceed Without Prepayment of Fees and Costs* (Document 1) be **DENIED**, the Plaintiff's *Complaint* (Document 2) be **DISMISSED without prejudice** pursuant to 28 U.S.C. § 1915(g), and the matter be **REMOVED** from the Court's docket.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge Aboulhosn, counsel of record, and any unrepresented party.

ENTER: March 30, 2022



IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA